

NOV 22 1983

Final Rule to Approve Nebraska NSR and PSD Regulations - MINOR ACTION

Morris Kay
Regional Administrator - Region VII

William D. Ruckelshaus
Administrator (A-100)

THRU: Denise Gerth, Office of Air
Quality Planning and Standards (ANR-445)

IDENTIFICATION OF ACTION

Attached is a final rule to be published in the Federal Register. It takes final action to approve the Nebraska regulations which comply with federal requirements for new source review (NSR) in nonattainment areas and for the prevention of significant deterioration (PSD) in attainment areas. This rulemaking is being processed as a minor action because there were no comments received on the proposal which was classified as a major action.

SUMMARY

On June 7, 1983, EPA received a revision to the Nebraska State Implementation Plan (SIP) which contains changes to the Nebraska rules pertaining to new sources which closely parallel federal requirements, a new regulation which adopts the federal PSD requirements by reference, and a new regulation to address the stack height requirements of the Act. On August 31, 1983, we proposed to approve the NSR and PSD regulations. We also proposed to approve the stack height regulation based on a commitment from the state to clarify the regulation relating to the public notice and hearing requirements. The state has not had the opportunity to fulfill this commitment to date, although it is our understanding that they still intend to do so. Additionally, since the proposal was published, the U.S. Court of Appeals for the District of Columbia has rendered its decision on EPA's stack height requirements. Consequently, we are taking no action on the Nebraska stack height regulation at this time.

COORDINATION WITH STATE

On March 28, 1983 (48 FR 12715), EPA published the final rulemaking to approve portions of the Nebraska SIP submitted to satisfy the requirements of Part D of the Clean Air Act, as amended. EPA took no action on the state's new source review regulations at that time because the state was in the process of revising the regulations to more closely comply with federal requirements. Region VII worked with the state to correct the deficiencies of the regulations. On March 25, 1983, the Nebraska Environmental Control Council heard and adopted the revisions to the NSR regulations necessary to meet federal requirements. These revisions were received by EPA on June 7, 1983. This action approves the state's NSR regulation revisions.

ARBR/MCC	ARBR/WGL	ARBR/CMW	CNSL/RLP	ARWM/WAS	ARWM/DAW	DRAD/WWR	RGAD/MK
<i>McCart</i>	<i>W</i>	<i>Walter</i>	<i>Patrick</i>		<i>WAGONER</i>		<i>MK</i>
11/15/83	11/16/83	11/16/83	11/17/83	11/ /83	11/17/83	11/ /83	11/ /83
<i>W.D. Ruckelshaus</i>							<i>22</i>

ISSUES

The previous lack of approvable new source review regulations for non-attainment areas led to the imposition of the construction moratorium on July 1, 1979, required by Section 110(a)(2)(I) of the Act, on all primary nonattainment areas in the state. This action will remove the construction moratorium in the primary nonattainment areas for which a Part D SIP revision has been approved by EPA.

The TSP nonattainment areas listed in the February 3, 1983, proposed rule-making as Tier II areas for failure to submit an adequate SIP were so listed because of the lack of approved NSR regulations. These areas should be removed from the Tier II list and entered on the Tier I list upon approval of the current revisions.

PROCEDURAL REVIEW

This action is being processed as a final rule, minor action since there were no comments received on the proposal, which was classified as a major action.

This package must be reviewed by the Office of Management and Budget since we are not acting on the Nebraska stack height regulation which was included in the state's submission.

We request that the Federal Register staff provide the appropriate closing date on the first and sixth pages of the rulemaking.

Attached are an original and 14 copies of the document. A copy of this document has been forwarded directly to the Control Programs Development Division.

If you have any questions the member of my staff who is most familiar with this subject, Mary C. Carter, FTS 758-3791, can provide additional information.

Attachments

cc: Office of General Counsel (A-130)
Division of Standards and Regulations Evaluation (PM-223)
Stationary Source Compliance Division (EN-341)
Office of Management and Budget
Public Information Reference Unit (PM-213)
Federal Register Officer
Office of Air, Noise and Radiation

bcc: Control Programs Development Division (MD-15)

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